An Inquiry pursuant to section 9(1) of the Environment Effects Act 1978 (EE Act) and an Advisory Committee pursuant to section 151 of the Planning and Environment Act 1987 (PE Act) are appointed to jointly consider and report upon the Melbourne Metro Rail Project, in accordance with these Terms of Reference.

The combined Inquiry and Advisory Committee is to be known as the Melbourne Metro EES Inquiry and Advisory Committee (IAC).

Background

1. The Melbourne Metro Rail Project broadly comprises:
   a. two nine-kilometre rail tunnels from Kensington to South Yarra to connect the Sunbury and Cranbourne-Pakenham railway lines, to be used by electric trains and generally following an alignment, which can be described from west to east as passing:
      - under Arden and North Melbourne to Grattan Street; then
      - under the vicinity of South Carlton, Swanston Street, Queen Victoria Gardens, St Kilda Road, Fawkner Park and Toorak Road;
   b. western portal is generally in the vicinity of South Kensington Station, with realignment of the existing Sunbury Line tracks to form an at-grade junction with the Project tracks;
   c. new underground stations at:
      - Arden, proposed to be located east of CityLink within government owned land;
      - Parkville, proposed to be located generally under the Grattan Street road reserve, east of the intersection of Royal Parade, and including train-tram interchange;
      - CBD North, proposed to be located generally under the Swanston Street road reserve, generally between Franklin Street and Latrobe Street, and including interchange access to Melbourne Central Station;
      - CBD South, proposed to be located generally under the Swanston Street road reserve generally between Collins Street and Flinders Street, and including interchange access to Flinders Street Station and Federation Square; and
      - Domain, proposed to be located generally under the road reserve of St Kilda Road and Albert Road, and including a train-tram interchange.
   d. eastern portal is generally south of South Yarra Station, with the project tracks tying into the existing Cranbourne-Pakenham Line tracks west of Chapel Street; and
   e. relevant ancillary temporary and permanent works to support the construction and operation of the tunnels, stations and interchanges, including turnbacks and emergency access shafts for safety purposes in a number of locations as required, which may include Fawkner Park and the Domain parklands.

2. The Project proponent is the Melbourne Metro Rail Authority (MMRA), which has been established as an administrative office of the Department of Economic Development, Jobs, Transport and Resources (DEDJTR).

3. On 3 September 2015 the works proposed to be undertaken by the MMRA for the purposes of the Project were declared by Order to be “public works”, pursuant to section 3(1) of the EE Act.
4. Section 4(1) of the EE Act provides that before commencing any public works to which the EE Act applies, the proponent must cause an Environment Effects Statement (EES) to be prepared and submitted to the Minister for assessment of the environmental effects of the works.

5. On 24 November 2015 a further Order was made to exclude certain specified works from the declaration of public works made on 3 September 2015, and thereby exclude those specified works from the requirement to prepare an EES.

6. The order made on 3 September 2015 also specified procedures and requirements for the preparation of the EES in accordance with section 3(3) of the EE Act.

7. Pursuant to the order made on 3 September 2015:
   a. Draft scoping requirements were prepared and placed on public exhibition between 13 October 2015 and 4 November 2015;
   b. Having considered the public comments in relation to the draft scoping requirements, final scoping requirements were approved by the Minister for Planning on 11 December 2015.

8. As the proponent, the MMRA has been responsible for preparing the EES and its appendices and undertaking all stakeholder consultation in the course of that process.

9. A draft planning scheme amendment affecting the Maribyrnong, Melbourne, Port Phillip and Stonnington Planning Schemes (the draft PSA) has been published with the EES. The draft PSA has been prepared by MMRA. The draft PSA is intended to facilitate the implementation of the Project.

10. MMRA propose that the Minister for Planning will be the planning authority for the amendment.

11. The draft PSA proposes:
   a. The Project would be exempt from the requirement to obtain a planning permit, provided that the use and development for the purposes of the Project complies with the conditions and requirement set out in an 'Incorporated Document'.
   b. A Design and Development Overlay which will apply over the area affected by the Project as a means of protecting the delivery of the Project and the resultant infrastructure into the future.

12. Pursuant to the order made on 3 September 2015 the EES will be exhibited for a period of 30 business days for public comments.

13. The Inquiry has been appointed on 10 April 2016 under section 9(1) of the EE Act to consider the environmental effects of the proposal. The membership of the Inquiry is:
   a. Kathy Mitchell (Chair)
   b. Geoff Underwood (Deputy Chair)
   c. Craig Barker
   d. Jenny Donovan
   e. Mandy Elliott
   f. Kate Partenio

**Inquiry**

**Terms of Reference**

14. The Inquiry is to:
   a. Review:
      i. The EES and technical appendices; and
      ii. Any public submissions received in relation to the EES as part of the exhibition process;
b. Investigate and consider:
   i. The potential magnitude, likelihood and significance of adverse and beneficial environmental effects of the Project;
   ii. Potential modifications to the Project and/or environmental management measures that are needed to address likely adverse effects or environmental risks;
   iii. The overall significance of likely adverse effects and environmental risks of the project, relative to likely benefits of the project, within the context of applicable legislation, policy, strategies and guidelines;
   iv. The assessment contained in the EES and technical appendices of each of the potential specific environmental effects in light of the Order and the Scoping Requirements, and any mitigation measures, or performance requirements contained in the EES to address the identified environmental effects;
   v. The adequacy and/or appropriateness of the proposed environmental management framework for the works, including but not limited to a consideration of the environment performance measures or other mitigation measures contained in the EES;
   vi. Whether acceptable environmental outcomes can be achieved by the Proposal overall, both with and without potential modifications or environmental management measures;
   vii. All submissions made to the Inquiry in relation to any matter relevant to the Inquiry’s investigation or consideration of the EES; and
   viii. Any matter reasonably incidental to the matters set out in paragraphs 14(b){i) to (vii) above.

c. Conduct a hearing to hear from MMRA and any submitters as though the Inquiry:
   i. is a Panel for the purpose of section 160 of the PE Act – ie the Inquiry
      1. is to conduct its hearings in public unless a submission is of a confidential nature; and
      2. has the power to make orders excluding a person from proceedings who does an act referred to in section 169 of the PE Act
   ii. is an advisory committee conducting a hearing for the purposes of section 152(1) and (2) of the PE Act.

d. Provide a report to the Minister containing a description of the proceedings conducted by the Inquiry (including a list of those making a submission or consulted), and findings and recommendations in relation to its investigations and considerations referred to above, including but not limited to the following specific matters:
   i. The likelihood and significance of environmental effects (impacts) of the project including any design and construction options documented in the EES.
   ii. Whether the project is capable of achieving acceptable environmental outcomes in the context of applicable legislation, policy, strategies and guidelines.
   iii. Having regard to the draft evaluation objectives in the EES Scoping Requirements, the Inquiry’s own conclusions on the effects of the project and relevant public submissions, what design and construction options for the various project components are the most suitable for meeting the project outcomes and at the same time delivering an appropriate balance of environmental, economic and social outcomes.
iv. Any modifications to the project that are needed to prevent or minimise adverse environmental effects of the Project, having regard to any standards, objectives and guidelines established under relevant legislation.

v. Any conditions which might need to be imposed on any approval given for the Project under Victorian law which are necessary to achieve acceptable environmental outcomes under the applicable legislation and/or policy.

vi. The proposed framework for environmental management of the Project, including any Environment Management Plan(s) required in association with an approval given under Victorian law.

vii. The effectiveness of proposed mitigation measures in reducing identified risks to residual levels presented in the EES.

viii. The extent to which the analysis in the EES demonstrates whether relevant proposed Environmental Performance Requirements can be met.

Advisory Committee

15. The Advisory Committee is appointed pursuant to section 151 of the PE Act.

Terms of Reference

16. If the Project is to proceed, the MMRA proposes an amendment to the various planning schemes which apply to the land affected by the Project. The MMRA has prepared a draft planning scheme amendment. The Advisory Committee is to:

   a. Review:
      i. The draft PSA; and
      ii. Any public submissions received in relation to it;
   b. Conduct a hearing to hear from MMRA and any submitters that wish to be heard concerning the draft planning scheme amendment. The hearing is to be conducted:
      i. in accordance with the relevant provisions of the PE Act (including section 152 of the PE Act); and
      ii. jointly with the Inquiry hearing in relation to the EES insofar as is appropriate and possible; and
   c. Provide a report to the Minister containing the Advisory Committee's advice as to whether the draft PSA is an appropriate means by which to facilitate and implement the Project, and any recommendations it might have in relation to the statutory framework to be established for the Project.

Miscellaneous

Submissions

17. Submissions to the IAC are public documents unless otherwise directed by the IAC.

18. Submissions to the IAC will be retained for five years from the appointment of the IAC, or longer if otherwise directed by the IAC.

Quorum

19. The IAC will meet and conduct hearings when there is a quorum of at least four of its members present including the IAC Chair or the Deputy Chair.

Time of parties appearing before the Inquiry/Advisory Committee

20. The IAC may limit the time of parties appearing before it.
Timing of Report

21. The IAC is to submit its report to the Minister within 30 business days of the last hearing day.

Fees and Costs of Inquiry/Advisory Committee

22. The members of the IAC will receive the same fees and allowances as a Senior Panel Chair appointed under Division 1 of Part 8 of the Planning and Environment Act 1987.

23. All costs of the IAC, including expert advice, technical administration and legal support, venue hire, accommodation, recording proceedings and other costs will be met by the MMRA.

Technical, Legal and Administrative Support

24. The IAC may seek advice from experts where it considers this is necessary. Any such advice must be publicly disclosed.

25. The IAC may retain legal counsel to assist it.

26. Planning Panels Victoria is to provide administrative support to the IAC.

27. The IAC may also engage additional technical and administrative support as required.

Richard Wynne
Richard Wynne MP
Minister for Planning

Date: 23/5/16
Appendix A – Other Information

Project Managers

1. Day to day liaison for matters regarding the Inquiry process can be made to Planning Panels Victoria, on phone: (03) 9223 5317 or email: planning.panels@delwp.vic.gov.au.

2. Day to day liaison for matters regarding the EES process can be made to the Impact Assessment Unit in Department of Environment Land Water and Planning (DELWP) on phone (03) 8392 5503 or email impact.assessment@delwp.vic.gov.au.